

1 H.126

2 Senator Bray moves that the Senate propose to the House that the bill be  
3 amended as follows:

4 First: By adding a reader assistance heading prior to Sec. 1 to read as  
5 follows:

6 \* \* \* Community Resilience and Biodiversity \* \* \*

7 Second: In Sec. 1, short title, before “may be cited” by striking out “This  
8 act” and inserting in lieu thereof Secs. 1–4 of this act

9 Third: By striking out Sec. 5, effective date, in its entirety and inserting in  
10 lieu thereof new Secs. 5–36 with reader assistance headings to read as follows:

11 \* \* \* Dam Registration and Design Standards \* \* \*

12 Sec. 5. 2018 Acts and Resolves No. 161, Sec. 2 is amended to read:

13 Sec. 2. DAM REGISTRATION PROGRAM REPORT

14 On or before January 1, ~~2023~~ 2025, the Department of Environmental  
15 Conservation shall submit a report to the House Committees on ~~Natural~~  
16 ~~Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and  
17 Means and the Senate Committees on Natural Resources and Energy and on  
18 Finance. The report shall contain:

19 (1) an evaluation of the dam registration program under 10 V.S.A.  
20 chapter 43;





1 temporary or permanent rights-of-way, and for implementing related  
2 management programs.

3 \* \* \*

4 (10) The Vermont Wastewater and Potable Water Revolving Loan  
5 Fund, which shall be used to provide loans to individuals, in accordance with  
6 section 4763b of this title, for the design and construction of repairs to or  
7 replacement of wastewater systems and potable water supplies when the  
8 wastewater system or potable water supply is a failed system or supply as  
9 defined in 10 V.S.A. § 1972, or when a designer demonstrates that the  
10 wastewater system or potable water supply has a high probability of failing.  
11 The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A.  
12 § 2822(j)(4) or from the Fund established in subdivision (1) of this subsection,  
13 or a combination of both, shall be deposited into this Fund at the beginning of  
14 each fiscal year to ensure a minimum balance of available funds of  
15 \$275,000.00 exists for each fiscal year.

16 (b)(1) Each of such funds shall be established and held separate and apart  
17 from any other funds or monies of the State and shall be used and administered  
18 exclusively for the purpose of this chapter with the exception of transferring  
19 funds from the Vermont Drinking Water Planning Loan Fund and the Vermont  
20 Drinking Water Source Protection Fund to the Vermont Environmental  
21 Protection Agency (EPA) Drinking Water State Revolving Fund, and from the

1 Vermont Pollution Control Revolving Fund to the Vermont Environmental  
2 Protection Agency (EPA) Pollution Control Revolving Fund, when authorized  
3 by the Secretary.

4 (2) These funds shall be administered by the Bond Bank on behalf of the  
5 State, except that:

6 (A) the Vermont EPA Drinking Water State Revolving Fund and the  
7 Vermont Drinking Water Planning Loan Fund shall be administered by VEDA  
8 concerning loans to privately owned public water systems in accordance with  
9 subchapter 3 of this chapter;

10 (B) the Vermont Environmental Protection Agency (EPA) Pollution  
11 Control Revolving Fund shall be administered by VEDA concerning loans to  
12 private entities for clean water projects in accordance with subchapter 4 of this  
13 chapter; and

14 (C) the Vermont Environmental Protection Agency (EPA) Pollution  
15 Control Revolving Fund and the Vermont Wastewater and Potable Water  
16 Revolving Loan Fund may be administered by a community development  
17 financial institution, as that term is defined in 12 U.S.C. § 4702, that is  
18 contracted with by the State for the purpose of providing loans to individuals  
19 ~~for failed wastewater systems and potable water supplies~~ in accordance with  
20 section 4763b of this chapter.

21 \* \* \*

1 Sec. 10. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

2 Subchapter 2. ~~Municipal~~ Loans to Municipalities and Individuals

3 \* \* \*

4 § 4757. REVOLVING LOAN FUNDS; ADDITIONAL USES

5 In addition to providing a source of funds from which loans may be made to  
6 municipalities under this chapter, each fund created under section 4753 of this  
7 chapter may be used for one or more of the following purposes:

8 (1) To make loans, to refund bonds or notes of a municipality issued  
9 after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply  
10 systems for the purpose of financing the construction of any capital  
11 improvements or management program described in section 4753 and certified  
12 under section 4756 of this title.

13 (2) To guarantee or insure, directly or indirectly, the payment of notes or  
14 bonds issued or to be issued by a municipality for the purpose of financing the  
15 construction of any capital improvement or management program described in  
16 section 4754 of this title and certified under section 4756.

17 (3) To guarantee or insure, directly or indirectly, funds established by  
18 municipalities for the purpose of financing construction of any capital  
19 improvement described in section 4754 of this title.

20 (4) To invest available fund balances, and to credit the net interest  
21 income thereon to the particular fund providing investment funds.



1 one or more of the residences from the Vermont Wastewater and Potable  
2 Water Revolving Loan Fund established in section 4753 of this title. In such  
3 cases, the following conditions shall apply:

4 (1) a loan may only be made to an owner with a household income equal  
5 to or less than 200 percent of the State average median household income;

6 (2) a loan may only be made to an owner who resides in one of the  
7 residences served by the failed supply or system on a year-round basis;

8 ~~(3) a loan may only be made to an owner who has been denied financing~~  
9 ~~for the repair, replacement, or construction due to involuntary disconnection by~~  
10 ~~at least one other financing entity; [Repealed.]~~

11 (4) when the failed supply or system also serves residences owned by  
12 persons other than the loan applicant, a loan may only be made for an equitable  
13 share of the cost to repair or replace the failed supply or system that is  
14 determined through agreement of all of the owners of residences served by the  
15 failed system or supply;

16 (5) no construction loan shall be made to an individual under this  
17 subsection, nor shall any part of any revolving loan made under this subsection  
18 be expended, until all of the following take place:

19 (A) the Secretary of Natural Resources determines that if a  
20 wastewater system and potable water supply permit is necessary for the design

1 and construction of the project to be financed by the loan, the permit has been  
2 issued to the owner of the failed system or supply; and

3 (B) the individual applying for the loan certifies to the Secretary of  
4 Natural Resources that the proposed project has secured all State and federal  
5 permits, licenses, and approvals necessary to construct and operate the project  
6 to be financed by the loan; and

7 (6) all funds from the repayment of loans made under this section shall  
8 be deposited into the Vermont Wastewater and Potable Water Revolving Loan  
9 Fund.

10 (b) Notwithstanding any other provision of law to the contrary, when the  
11 wastewater system serving only single-family and multifamily residences  
12 either meets the definition of a failed system in 10 V.S.A. § 1972 or is  
13 demonstrated by a designer to have a high probability of failing, the Secretary  
14 of Natural Resources may lend monies to an owner of one or more of the  
15 residences from the Vermont Wastewater and Potable Water Revolving Loan  
16 Fund and capitalized by money that has been transferred from the Vermont  
17 Environmental Protection Agency (EPA) Pollution Control Revolving Fund  
18 pursuant to subdivision 4753(a)(10) of this title, provided that no State funds  
19 are used. In such cases, all of the following conditions shall apply:

1           (1) A loan may only be made to an owner with a household income  
2           equal to or less than 200 percent of the State average median household  
3           income.

4           (2) A loan may only be made to an owner who resides in one of the  
5           residences served by the failed system on a year-round basis.

6           (3) A loan may only be made to an owner who demonstrates sufficient  
7           means to pay the principal and interest on the loan.

8           (4) A loan may only be made for a project that is a clean water project  
9           the Secretary has designated as a priority for receipt of financial assistance.

10           (5) When the failed system also serves residences owned by persons  
11           other than the loan applicant, a loan may only be made for an equitable share  
12           of the cost to repair or replace the failed system that is determined through  
13           agreement of all of the owners of residences served by the failed system.

14           (6) No construction loan shall be made to an individual under this  
15           subsection, nor shall any part of any revolving loan made under this subsection  
16           be expended, until all of the following take place:

17           (A) the Secretary of Natural Resources determines that if a  
18           wastewater system and potable water supply permit is necessary for the design  
19           and construction of the project to be financed by the loan, the permit has been  
20           issued to the owner of the failed system; and



1        Notwithstanding the authority of the Secretary of Natural Resources under  
2        24 V.S.A. § 4753 to transfer up to \$275,000.00 from the Vermont EPA  
3        Pollution Control Revolving Fund to the Vermont Wastewater and Potable  
4        Water Revolving Fund, the Secretary of Natural Resources shall not transfer  
5        any funds from the EPA Pollution Control Revolving Fund to the Vermont  
6        Wastewater and Potable Water Revolving Fund after July 1, 2024 until:

7                (1) the Secretary of Natural Resources submits the comprehensive fee  
8                report required by the General Assembly for each Agency of Natural  
9                Resources fee in existence on July 1, 2023;

10               (2) the Secretary of Natural Resources submits the report required under  
11               Sec. 12 (report on EPA revolving funds) of this act; and

12               (3) an act of the General Assembly authorizes transfers from the  
13               Vermont EPA Pollution Control Revolving Fund to the Vermont Wastewater  
14               and Potable Water Revolving Fund to continue after July 1, 2024.

15        Sec. 12. ANR REPORT ON REVOLVING LOAN FUNDS

16               On or before January 15, 2024, the Secretary of Natural Resources shall  
17               submit to the House Committee on Corrections and Institutions and the Senate  
18               Committee on Institutions a report summarizing the status of the Vermont  
19               Environmental Protection Agency (EPA) Pollution Control Revolving Fund  
20               and the Vermont Environmental Protection Agency (EPA) Drinking Water  
21               State Revolving Fund. The report shall include an accounting of the Funds,

1 including the following information for each Fund as it existed at the end of  
2 fiscal year 2023:

3 (1) the balance of funds in the Fund;

4 (2) the amount of funds loaned or obligated from the Fund;

5 (3) the amount of funds repaid to the Fund in fiscal year 2023; and

6 (4) the amount of funds due for repayment to the Fund.

7 \* \* \* Clean Water Reporting \* \* \*

8 Sec. 13. 10 V.S.A. § 1264(k) is amended to read:

9 (k) Report on treatment practices. ~~Report on treatment practices.~~ As part  
10 of the report required under section 1389a of this title, the Secretary annually  
11 shall report the following:

12 (1) whether the phosphorus load from new development permitted under  
13 this section by the Secretary in the Lake Champlain watershed in the previous  
14 ~~calendar~~ State fiscal year is achieving at least a 70 percent average phosphorus  
15 load reduction;

16 (2) the estimated total phosphorus load reduction from new  
17 development, redevelopment, and retrofit of impervious surface permitted  
18 under this section in the previous State fiscal year; and

19 (3) the number of projects and the percentage of projects as a whole that  
20 implemented Tier 1 stormwater treatment practices, Tier 2 stormwater

1 treatment practices, or Tier 3 stormwater treatment practices in the previous  
2 State fiscal year.

3 Sec. 14. 10 V.S.A. § 1389a(b)(6) is amended to read:

4 (6) Beginning on January ~~2023~~ 2024, a summary of the administration  
5 of the grant programs established under sections 925–928 of this title,  
6 including whether these grant programs are adequately funding  
7 implementation of the Clean Water Initiative and whether the funding limits  
8 for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of  
9 this title should be amended to improve State implementation of the Clean  
10 Water Initiative.

11 Sec. 15. 2019 Acts and Resolves No. 76, Sec. 7 is amended to read:

12 Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT  
13 TRADING

14 On or before July 1, ~~2022~~ 2024, the Secretary of Natural Resources, after  
15 consultation with the Clean Water Board, shall submit to the Senate  
16 Committees on Appropriations, on Natural Resources and Energy, and on  
17 Finance and the House Committees on Appropriations, on ~~Natural Resources,~~  
18 ~~Fish, and Wildlife~~ Environment and Energy, and on Ways and Means  
19 recommendations regarding implementation of a market-based mechanism that  
20 allows the purchase of water quality credits by permittees under 10 V.S.A.

1 chapter 47, and other entities. The report shall include information on the cost  
2 to develop and manage any recommended trading program.

3 \* \* \* ANR Enforcement Practices \* \* \*

4 Sec. 16. 10 V.S.A. § 1527 is amended to read:

5 § 1527. PENALTY

6 A person who violates a provision of this chapter shall be fined ~~not more~~  
7 ~~than \$1,000.00 for each violation~~ in accordance with chapter 201 of this title.

8 Sec. 17. 10 V.S.A. § 6697 is amended to read:

9 § 6697. CIVIL PENALTIES; WARNING

10 (a) A person, store, or food service establishment that violates the  
11 requirements of this subchapter shall:

12 ~~(1) receive a written warning for a first offense;~~

13 ~~(2) be subject to a civil penalty of \$25.00 for a second offense; and~~

14 ~~(3) be subject to a civil penalty of \$100.00 for a third or subsequent~~  
15 ~~offense~~ be fined in accordance with chapter 201 of this title.

16 (b) For the purposes of enforcement under this subchapter, an offense shall  
17 be each day a person, store, or food service establishment is violating a  
18 requirement of this subchapter.

19 Sec. 18. 24 V.S.A. § 2282 is amended to read:

20 § 2282. PENALTY



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(E) issuance of emergency sludge and septage disposal approvals  
under section 6605 of this title; ~~and~~  
(F) shoreland registrations authorized under chapter 49A of this title;  
and  
(G) issuance of authorization under the Construction General Permit  
or individual stormwater permits issued pursuant to chapter 47 of this title, for  
discharges of stormwater runoff related to emergency construction activities;  
emergency construction activities are those necessary to address imminent risk  
to life or a risk of damage to public or private property, including damage to  
lifeline infrastructure, as determined by the Secretary.

(b) Notice of final decision. The Secretary shall provide notice of the final  
decision through the environmental notice bulletin and shall post the decision  
to the bulletin.

Sec. 21. 29 V.S.A. § 405(d) is added to read:

(d) A permit issued pursuant to this section shall be effective on the date  
that it is signed and issued to the applicant.

\* \* \* Potable Water Supply \* \* \*

Sec. 22. 10 V.S.A. § 1972(4) is amended to read:

(4)(A) “Failed supply” means a potable water supply:

1 (i) that has been found to exceed the standard set by the Secretary  
2 in rule for one or more of the following contaminants:

3 (I) total coliform;

4 (II) nitrates;

5 (III) nitrites;

6 (IV) arsenic; or

7 (V) uranium;

8 (ii) that the Secretary affirmatively determines as not potable, due  
9 to the presence of a contaminated site, a leaking underground storage tank, or  
10 other known sources of groundwater contamination or naturally occurring  
11 contaminants, ~~and that information has been posted on the Agency of Natural  
12 Resources' website;~~ or

13 (iii) the Secretary affirmatively determines to be failed due to the  
14 supply providing an insufficient quantity of water to maintain the usual and  
15 customary uses of a building or structure or campground, ~~and that information  
16 has been posted on the Agency of Natural Resources' website.~~

17 (B) Notwithstanding the provisions of this subdivision, a potable  
18 water supply shall not be a failed supply if:

19 (i) these effects can be and are remedied solely by minor repairs,  
20 including the repair of a broken pipe leading from a building or structure to a

1 well, the replacement of a broken pump, repair or replacement of a mechanical  
2 component, or deepening or hydrofracturing a well; or

3 (ii) these effects have lasted for only a brief period of time, the  
4 cause of the failure has been determined to be an unusual and nonrecurring  
5 event, and the supply has recovered from the state of failure. Supplies that  
6 have recurring, continuing, or seasonal failures shall be considered to be failed  
7 supplies.

8 (C) If a project is served by multiple potable water supplies, the  
9 failure of one supply will not require the issuance of a permit or permit  
10 amendment for any other supply that is not in a state of failure.

11 \* \* \* Petroleum Cleanup Fund Assistance Program \* \* \*

12 Sec. 23. 10 V.S.A. § 1941 is amended to read:

13 § 1941. PETROLEUM CLEANUP FUND

14 \* \* \*

15 (b) The Secretary may authorize disbursements from the Fund for the  
16 purpose of the cleanup and restoration of contaminated soil and groundwater  
17 caused by releases of petroleum, including aviation gasoline, from  
18 underground storage tanks and aboveground storage tanks, including air  
19 emissions for remedial actions, and for compensation of third parties for injury  
20 and damage caused by a release. This Fund shall be used for no other  
21 governmental purposes, nor shall any portion of the Fund ever be available to

1 borrow from by any branch of government; it being the intent of the General  
2 Assembly that this Fund and its increments shall remain intact and inviolate for  
3 the purposes set out in this chapter. Disbursements under this section may be  
4 made only for uninsured costs incurred after January 1, 1987 and for which a  
5 claim is made prior to July 1, 2029 and judged to be in conformance with  
6 prevailing industry rates. This includes:

7 (1) Costs incurred by taking corrective action as directed by the  
8 Secretary for any release of petroleum into the environment from:

9 (A) An underground storage tank defined as a category one tank used  
10 for commercial purposes, provided disbursements on any site shall not exceed  
11 \$1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

12 (i) after the first \$10,000.00 of the cleanup costs have been borne  
13 by the owners or operators of double-wall tank systems ~~used for commercial~~  
14 ~~purposes~~ or single-wall tank systems that were either taken out of service or  
15 abandoned prior to July 1, 1985; and

16 (ii) ~~after the first \$15,000.00 of cleanup costs have been borne by~~  
17 ~~the owners or operators of combination tank systems, whether lined or unlined,~~  
18 ~~used for commercial purposes, unless the system is a lined combination tank~~  
19 ~~system that has been granted a five-year extension under subsection 1927(f) of~~  
20 ~~this title;~~

1           ~~(iii)~~ after the first \$25,000.00 of cleanup costs have been borne by  
2 the owners or operators of lined combination tank systems that have been  
3 granted a five-year extension to operate under subsection 1927(f) of this title;

4           ~~(iv)~~ after the first \$25,000.00 of cleanup costs have been borne by  
5 the owners or operators of single wall tank systems used for commercial  
6 purposes.

7           (B) An underground motor fuel tank used for farming or residential  
8 purposes either after the first \$250.00 of the cleanup costs have been borne by  
9 the owners or operators of tanks with a capacity equal to or less than 1,100  
10 gallons ~~and used for farming or residential purposes~~ or after the first \$1,000.00  
11 of the cleanup costs have been borne by the owners or operators of tanks with  
12 capacities over 1,100 gallons. Disbursements on any site shall not exceed  
13 ~~\$990,000.00~~ \$1,000,000.00 and shall be made from the Motor Fuel Account.

14           (C) An underground heating fuel tank used for on-premises heating  
15 after the first \$10,000.00 of the cleanup costs have been borne by the owners  
16 or operators of tanks with capacities over 1,100 gallons used for commercial  
17 purposes, or after the first \$250.00 of the cleanup costs have been borne by the  
18 owners or operators of tanks with capacities equal to or less than 1,100 gallons  
19 used for commercial purposes, or after the first \$250.00 of the cleanup costs  
20 have been borne by the owners or operators of residential and farm tanks.

1 Disbursements on any site shall not exceed ~~\$990,000.00~~ \$1,000,000.00 and  
2 shall be made from the Heating Fuel Account.

3 (D) An aboveground storage tank site after the first \$1,000.00 of the  
4 cleanup costs have been borne by the owners or operators of tanks used for  
5 commercial purposes, or after the first \$250.00 of the cleanup costs have been  
6 borne by the owners or operators of residential and farm tanks. Disbursements  
7 under this subdivision (b)(1)(D) on any individual site shall not exceed  
8 ~~\$25,000.00~~ \$50,000.00. These disbursements shall be made from the Motor  
9 Fuel Account or Heating Fuel Account, depending upon the use or contents of  
10 the tank.

11 (E) A bulk storage aboveground motor fuel or heating fuel storage  
12 tank site after the first \$10,000.00 of the cleanup costs have been borne by the  
13 owners or operators of tanks used for commercial purposes. Disbursements  
14 under this subdivision (b)(1)(E) on any individual site shall not exceed  
15 ~~\$990,000.00~~ \$1,000,000.00. These disbursements shall be made from the  
16 Motor Fuel Account.

17 (F) If a site is contaminated by petroleum releases from both heating  
18 fuel and motor fuel tanks, or where the source of the petroleum contamination  
19 has not been ascertained, the Secretary shall have the discretion to disburse  
20 funds from either the Heating Fuel or Motor Fuel Account, or both.

1           (2) Costs incurred in compensating third parties for bodily injury and  
2 property damage, as approved by the Secretary in consultation with the  
3 Commissioner of Financial Regulation, caused by release of petroleum from an  
4 underground category one storage tank into the environment from a site, up to  
5 \$1 million, but shall not include payment of any punitive damages.

6           (3) Costs incurred in taking immediate corrective action to contain or  
7 mitigate the effects of any release of petroleum into the environment from an  
8 underground storage tank or aboveground storage tank if, in the judgment of  
9 the Secretary, such action is necessary to protect the public health and the  
10 environment. The Secretary may seek reimbursement of the first \$10,000.00  
11 of the costs.

12           (4) The cost of corrective action up to \$1 million for any release of  
13 petroleum into the environment from an underground storage tank or tanks:

14           (A) whose owner, in the judgment of the Secretary, is incapable of  
15 carrying out the corrective action; ~~or~~

16           (B) whose owner or operator cannot be determined; or

17           (C) [Repealed.]

18           (D) whose owner, in the judgment of the Secretary, is financially  
19 incapable of carrying out the corrective action in a timely manner.

20           (5) [Repealed.]

1           (6) The costs of creating and operating a risk retention pool authorized  
2 by section 1939 of this title, which costs are in excess of a reasonable  
3 contribution by participants, as determined by the Secretary with the advice of  
4 the Commissioner of Financial Regulation. The authority for disbursements  
5 under this subdivision shall terminate on June 1, 1992.

6           (7) Administrative and field supervision costs incurred by the Secretary  
7 in carrying out the provisions of this subchapter. Annual disbursements shall  
8 not exceed 10 percent of annual receipts.

9           ~~(8) The cost of initiating spill control procedures, removal actions, and  
10 remedial actions to clean up spills of oil and other petroleum products where  
11 the responsible party is unknown, cannot be contacted, is unwilling to take  
12 action, or does not take timely action that the Secretary considers necessary.~~

13 [Repealed.]

14           (c) The Secretary may authorize disbursements from the Fund for costs of  
15 initiating spill control procedures, removal actions, and remedial actions to  
16 clean up spills of oil and other petroleum products where the responsible party  
17 is unknown, cannot be contacted, is unwilling to take action, or does not take  
18 timely action that the Secretary considers necessary. The Secretary may seek  
19 reimbursement of the costs, including any costs determined to be covered by  
20 insurance.

1        (d) The Secretary may use up to one-half the amount deposited to the  
2        Motor Fuel Account of the Fund from the licensing fees assessed under section  
3        1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan  
4        Assistance Program established by section 1944 of this title and the cost of  
5        administering the Program. If the Secretary determines that a balance will  
6        remain after all qualifying loan applications have been satisfied, the unneeded  
7        balance may be used for cleanup. The Secretary may use the amount in the  
8        Heating Fuel Account of the Fund for purposes of funding measures related to  
9        heating oil and kerosene.

10        ~~(d)~~(e) Disbursements from the Fund for cleanup costs incurred prior to  
11        passage shall be limited to uninsured costs.

12        ~~(e)~~(f) The Secretary shall establish the Petroleum Cleanup Fund Advisory  
13        Committee that shall meet not less than annually to review receipts and  
14        disbursements from the Fund, to evaluate the effectiveness of the Fund in  
15        meeting its purposes and the reasonableness of the cost of cleanup and to  
16        recommend alterations and statutory amendments deemed appropriate. The  
17        Advisory Committee shall submit an annual report of its findings to the  
18        General Assembly on January 15 of each year. In its annual report, the  
19        Advisory Committee shall review the financial stability of the Fund, evaluate  
20        the implementation of assistance related to underground farm or residential  
21        heating fuel storage tanks and aboveground storage tanks, and the need for

1 continuing assistance, and shall include recommendations for sustainable  
2 funding sources to finance the provision of that assistance. The provisions of 2  
3 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to  
4 be made under this subsection. The membership of the Committee shall  
5 include the following or their designated representative:

6 (1) the Secretary of Natural Resources, who shall be chair;

7 (2) the Commissioner of Environmental Conservation;

8 (3) the Commissioner of Financial Regulation;

9 (4) a licensed gasoline distributor;

10 (5) a retail gasoline dealer;

11 (6) a representative of a statewide refining-marketing petroleum

12 association;

13 (7) one member of the House to be appointed by the Speaker of the

14 House;

15 (8) one member of the Senate to be appointed by the Committee on

16 Committees;

17 (9) a licensed heating fuel dealer;

18 (10) a representative of a statewide heating fuel dealers' association; and

19 (11) a licensed real estate broker.

20 ~~(f)~~(g) The Secretary may seek reimbursement to the Fund of cleanup  
21 expenditures only when the owner of the tank is in significant violation of his

1 ~~or her~~ the owner's permit or rules, or when a required fee has not been paid for  
2 the tank from which the release occurred or, to the extent covered, when there  
3 is insurance coverage. When the Secretary has paid the first \$10,000.00 of  
4 costs under subdivision (b)(4)(D) of this section, the Secretary may seek  
5 reimbursement of those costs.

6 ~~(g)~~(h) The owner of a farm or residential heating fuel storage tank used for  
7 on-premises heating or an underground or aboveground heating fuel storage  
8 tank used for on-premises heating by a mobile home park resident, as defined  
9 in section 6201 of this title, who desires assistance to close, replace, or upgrade  
10 the tank or replace the heating fuel system with advanced wood heat or a heat  
11 pump may apply to the Secretary for such assistance. The financial assistance  
12 may be in the form of grants of up to: ~~\$2,000.00~~ \$3,000.00 or the costs of  
13 closure, replacement, or upgrade, whichever is less, for an aboveground  
14 storage tank located inside a structure; up to ~~\$3,000.00~~ \$4,000.00 or the costs  
15 of closure, replacement, or upgrade, whichever is less, for an aboveground  
16 storage tank located outside a structure; ~~and up to \$4,000.00~~ \$5,000.00 or the  
17 costs of closure, replacement, or upgrade, whichever is less, for an  
18 underground storage tank; ~~and up to \$4,000.00 or the actual cost of replacing~~  
19 the heating system with advanced wood heat or a heat pump, whichever  
20 amount is less. As used in this subsection, “structure” means any assembly of  
21 materials that is intended for occupancy or use by a person and that has at least

1 three walls and a roof. Grants shall be made only to the current property  
2 owners, except at mobile home parks where a grant may be awarded to a  
3 mobile home park resident. To be eligible to receive the grant, an  
4 environmental site assessment must be conducted by a qualified consultant  
5 during the tank closure, replacement, or upgrade if the tank is an underground  
6 heating fuel storage tank. In addition, if the closed tank is to be replaced with  
7 an underground heating fuel storage tank, the replacement tank and piping  
8 shall provide a level of environmental protection at least equivalent to that  
9 provided by a double wall tank and secondarily contained piping. Grants shall  
10 be awarded on a priority basis to projects that will avoid the greatest  
11 environmental or health risks. The Secretary shall also give priority to  
12 applicants who are replacing their underground heating fuel tanks with  
13 aboveground heating fuel storage tanks that will be installed in accordance  
14 with the Secretary's recommended standards. The Secretary shall also give  
15 priority to ~~lower-income~~ lower-income applicants. To be eligible to receive the  
16 grant, the owner must provide the previous year's financial information and, if  
17 the replacement tank is an aboveground tank, must ensure that any work to  
18 replace or upgrade a tank shall be done in accordance with industry standards  
19 (National Fire Protection Association, or NFPA, Code 31), as it existed on July  
20 1, 2004, until another date or edition is specified by rule of the Secretary. The  
21 Secretary shall authorize only up to ~~\$400,000.00~~ \$500,000.00 in assistance for

1 underground and aboveground heating fuel tanks in any one fiscal year from  
2 the Heating Fuel Account for this purpose. The application must be  
3 accompanied by the following information:

4 (1) proof of ownership, including information disclosing all owners of  
5 record of the property, except in the case where the applicant is a mobile home  
6 park resident;

7 (2) for farm or residential aboveground heating fuel storage tank  
8 owners, a copy of the federal income tax return for the previous year;

9 (3) identification of the contractor performing any heating fuel storage  
10 tank closure, replacement, ~~or~~ upgrade, or system replacement;

11 (4) an estimated cost of tank closure, replacement, ~~or~~ system  
12 replacement;

13 (5) the amount and type of assistance requested;

14 (6) a schedule for the work;

15 (7) description of surrounding area, including location of water supply  
16 wells, surface waters, and other sensitive receptors; and

17 (8) such other information and assurances as the Secretary may require.

18 \* \* \* Sales Tax Exemption for Advanced Wood Boilers \* \* \*

19 Sec. 24. 2018 Acts and Resolves No. 194, Sec. 26b(a), as amended by 2019

20 Acts and Resolves No. 83, Sec. 14, is further amended to read:

1 (a) 32 V.S.A. § ~~9741~~ 9741(52) (sales tax exemption for advanced wood  
2 boilers) and 9706(11) (statutory purpose: sales tax exemption for advanced  
3 wood boilers) shall be repealed on July 1, ~~2023~~ 2025.

4 \* \* \* Section 248 \* \* \*

5 Sec. 25. 30 V.S.A. § 248 is amended to read:

6 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND  
7 FACILITIES; CERTIFICATE OF PUBLIC GOOD

8 (a)(1) No company, as defined in section 201 of this title, may:

9 \* \* \*

10 (4)(A) With respect to a facility located in the State, in response to a  
11 request from one or more members of the public or a party, the Public Utility  
12 Commission shall hold a nonevidentiary public hearing on a petition for such  
13 finding and certificate. The public hearing shall either be remotely accessible  
14 or held in at least one county in which any portion of the construction of the  
15 facility is proposed to be located, or both. The Commission in its discretion  
16 may hold a nonevidentiary public hearing in the absence of any request from a  
17 member of the public or a party. From the comments made at a public hearing,  
18 the Commission shall derive areas of inquiry that are relevant to the findings to  
19 be made under this section and shall address each such area in its decision.  
20 Prior to making findings, if the record does not contain evidence on such an  
21 area, the Commission shall direct the parties to provide evidence on the area.

1 This subdivision does not require the Commission to respond to each  
2 individual comment.

3 \* \* \*

4 (i)(1) No company, as defined in sections 201 and 203 of this title, without  
5 approval by the Commission, after giving notice of such investment, or filing a  
6 copy of that contract, with the Commission and the Department at least 30  
7 days prior to the proposed effective date of that contract or investment:

8 (A) may invest in a gas-production facility located outside this State;  
9 or

10 (B) may execute a contract for the purchase of gas from outside the  
11 State, for resale to firm-tariff customers, that:

12 (i) is for a period exceeding five years; or

13 (ii) represents more than 10 percent of that company's peak  
14 demand for resale to firm-tariff customers.

15 (2) The Department and the Commission shall consider within 30 days  
16 whether to investigate the proposed investment or contract.

17 (3) The Commission, upon its own motion, or upon the recommendation  
18 of the Department, may determine to initiate an investigation. If the  
19 Commission does not initiate an investigation within such 30-day period, the  
20 contract or investment shall be deemed to be approved. If the Commission  
21 determines to initiate an investigation, it shall give notice of that decision to

1 the company proposing the investment or contract, the Department, and such  
2 other persons as the Commission determines are appropriate. The Commission  
3 shall conclude its investigation within 120 days of issuance of its notice of  
4 investigation, or within such shorter period as it deems appropriate, unless the  
5 company consents to waive the 120-day requirement. ~~If~~ Except when the  
6 company consents to waive the 120-day requirement, if the Commission fails  
7 to issue a decision within that 120-day period, the contract or investment shall  
8 be deemed to be approved. The Commission may hold informal, public, or  
9 evidentiary hearings on the proposed investment or contract.

10 \* \* \*

11 (u) For an energy storage facility, a certificate under this section shall only  
12 be required for a stationary facility exporting to the grid that has a capacity of  
13 100 kW or greater, unless the Commission establishes a larger threshold by  
14 rule. The Commission shall establish a simplified application process for  
15 energy storage facilities subject to this section with a capacity of up to 1 MW,  
16 unless it establishes a larger threshold by rule. For facilities eligible for this  
17 simplified application process, a certificate of public good will be issued by the  
18 Commission by the forty-sixth day following filing of a complete application,  
19 unless a substantive objection is timely filed with the Commission or the  
20 Commission itself raises an issue. The Commission may require facilities  
21 eligible for the simplified application process to include a letter from the

1 interconnecting utility indicating the absence or resolution of interconnection  
2 issues as part of the application.

3 Sec. 26. 30 V.S.A. § 101 is amended to read:

4 § 101. CORPORATIONS SUBJECT TO COMMISSION; FORMATION

5 (a) Subject to the additional or varied requirements of this chapter, a  
6 corporation may be formed pursuant to the provisions of the general  
7 corporation law for the sole purpose of conducting any one or more of the  
8 kinds of business, other than a railroad business, ~~which~~ that are subject to  
9 regulation by the Public Utility Commission.

10 (b) Unless the context clearly requires otherwise, references in this title to a  
11 “corporation” mean and include an individual, partnership, association,  
12 corporation, limited liability company, municipality, cooperative, and any  
13 other legally recognized entity or person.

14 (c) Unless the context clearly requires otherwise, references in this title to  
15 “articles of incorporation” mean and include articles of organization,  
16 partnership agreements, or other documentation submitted to the Vermont  
17 Secretary of State to register or form a business.

18 \* \* \* Hearings \* \* \*

19 Sec. 27. 30 V.S.A. § 506 is amended to read:

20 § 506. RENEWAL

1 Certificates with a limited duration may be renewed during or at the end of  
2 the period, after opportunity for hearing held according to the criteria for the  
3 granting of an original certificate in section 504 of this title and after the  
4 Commission has made the finding required by that section. As part of the  
5 renewal proceedings, the Commission shall hold a public hearing. The public  
6 hearing shall either be remotely accessible or held in each county served  
7 pursuant to the certificates ~~which~~ that are the subject of the renewal  
8 proceedings, or both.

9 Sec. 28. 30 V.S.A. § 102 is amended to read:

10 § 102. PETITION; HEARING; CERTIFICATE

11 (a) Before the articles of incorporation are transmitted to the Secretary of  
12 State, the incorporators shall petition the Public Utility Commission to  
13 determine whether the establishment and maintenance of ~~such~~ the corporation  
14 will promote the general good of the State and shall at that time file a copy of  
15 any ~~such~~ petition with the Department. The Department, within 12 days, shall  
16 review the petition and file a recommendation regarding the petition in the  
17 same manner as is set forth in subsection 225(b) of this title. ~~Such~~ The  
18 recommendation shall set forth reasons why the petition shall be accepted  
19 without hearing or shall request that a hearing on the petition be scheduled. If  
20 the Department requests a hearing on the petition, or, if the Commission deems  
21 a hearing necessary, it shall appoint a time and place either remotely accessible

1 or in the county where the proposed corporation is to have its principal office  
2 for hearing the petition, ~~and shall make an order for the publication of the~~  
3 ~~substance thereof and of the time and place of hearing two weeks successively~~  
4 ~~in a newspaper of general circulation in the county to be served by the~~  
5 ~~corporation, the last publication to be at least 12 days before the day appointed~~  
6 ~~for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall  
7 be published on the Commission’s website and once in a newspaper of general  
8 circulation in the county in which the proposed corporation is to have its  
9 principal office. The website notice shall be maintained through the date of the  
10 hearing. The newspaper notice shall include an Internet address where more  
11 information regarding the petition may be viewed. The Department of Public  
12 Service, through the Director for Public Advocacy, shall represent the public at  
13 the hearing.

14 \* \* \*

15 Sec. 29. 30 V.S.A. § 227 is amended to read:

16 § 227. SUSPENSION, REFUND

17 (a) If the Commission orders that a change shall not go into effect until  
18 final determination of the proceedings, it shall proceed to hear the matter as  
19 promptly as possible and shall make its determination within seven months  
20 from the date that it orders the investigation unless the company consents to  
21 waive the seven-month requirement. If a company files for a change in rate

1 design among classes of ratepayers, and the company has a rate case pending  
2 before the Commission, the Commission shall make its determination on the  
3 rate design change within seven months after the rate case is decided by the  
4 Commission unless the company consents to waive the seven-month  
5 requirement. ~~If~~ Except when the company consents to waive the seven-month  
6 requirement, if the Commission fails to make its determination within the time  
7 periods set by this subsection, the changed rate schedules filed by the company  
8 shall become effective and final.

9 \* \* \*

10 \* \* \* Rulemaking Authority \* \* \*

11 Sec. 30. 30 V.S.A. § 11 is amended to read:

12 § 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF  
13 FACT

14 (a)(1) The forms, pleadings, and rules of practice and procedure before the  
15 Commission shall be prescribed by it.

16 (2) With regard to the general procedural rules codified in Commission  
17 Rule 2.000, notwithstanding the rulemaking provisions of the Vermont  
18 Administrative Procedure Act, the Commission is empowered to prescribe and  
19 amend from time to time general rules with respect to pleadings, practice,  
20 evidence, procedure, and forms for all Commission proceedings.

1           (3) The rules prescribed or amended shall not abridge, enlarge, or  
2           modify any substantive rights of any person provided by law.

3           (4) The rules, when initially prescribed or any amendments to them,  
4           including any repeal, modification, or addition, shall take effect on the date  
5           provided by the Commission in its order of promulgation unless objected to by  
6           the Legislative Committee on Judicial Rules as provided in 12 V.S.A. chapter  
7           1. If an objection is made by the Legislative Committee on Judicial Rules, the  
8           initially prescribed rules in question shall not take effect until they have been  
9           reported to the General Assembly by the Chair of the Commission at any  
10           regular, adjourned, or special session thereof, and until after the expiration of  
11           45 legislative days of that session, including the date of the filing of the report.

12           (5) The General Assembly may repeal, revise, or modify any rule or  
13           amendment, and its action shall not be abridged, enlarged, or modified by  
14           subsequent rule.

15           (6) The Commission shall adopt rules that include, among other things,  
16           provisions that:

17           ~~(A)~~ (A) A utility whose rates are suspended under the provisions of  
18           section 226 of this title shall, within 30 days from the date of the suspension  
19           order, file with the Commission all exhibits it intends to use in the hearing  
20           thereon together with the names of witnesses it intends to produce in its direct  
21           case and a short statement of the purposes of the testimony of each witness.

1 Except in the discretion of the Commission, a utility shall not be permitted to  
2 introduce into evidence in its direct case exhibits which are not filed in  
3 accordance with this rule.

4 ~~(2)~~(B) A scheduling conference shall be ordered in every contested rate  
5 case. At such conference the Commission may require the State or any person  
6 opposing such rate increase to specify what items shown by the filed exhibits  
7 are conceded. Further proof of conceded items shall not be required.

8 \* \* \*

9 Sec. 31. 12 V.S.A. § 2 is amended to read:

10 § 2. DEFINITIONS

11 As used in sections 3 and 4 of this chapter:

12 (1) “Adopting authority” means the Chief Justice of the Supreme Court  
13 or the Chief Superior Judge, where appropriate.

14 (2) “Commission” means the Public Utility Commission.

15 (3) “Court” means the Supreme Court, except in those instances where  
16 the statutes permit rules to be adopted by the Chief Superior Judge, in which  
17 case, the word “court” means the Chief Superior Judge.

18 ~~(3)~~(4) “Rule” means a statement of general applicability that  
19 implements, interprets, or prescribes law or policy or the general procedural  
20 rules codified in Commission Rule 2.000. It includes judicial or administrative  
21 orders such as those issued under sections 31 and 37 of the Constitution of the

1 State of Vermont and all substantive or procedural requirements of a court,  
2 which affect one or more persons who are not employees of the court, which  
3 are used by the court in the discharge of its duties. It shall not include judicial  
4 orders or opinions issued in the resolution of a case or controversy. It shall not  
5 include any orders or rules of the Commission other than the general  
6 procedural rules codified in Commission Rule 2.000.

7 Sec. 32. 12 V.S.A. § 3 is amended to read:

8 § 3. LEGISLATIVE COMMITTEE ON JUDICIAL RULES

9 \* \* \*

10 (d) In addition to its powers under section 4 of this title concerning rules,  
11 the Committee may, in a similar manner, conduct public hearings, object, and  
12 notify the Court or Commission of objections concerning existing rules. A  
13 rule reviewed under this subsection shall remain in effect until amended or  
14 repealed.

15 (e) Rules or amendments thereto promulgated by the Supreme Court or the  
16 Commission, including any repeal, modification, or addition to existing rules,  
17 shall be submitted to the Legislative Committee on Judicial Rules at least 60  
18 days prior to their effective date.

19 Sec. 33. 12 V.S.A. § 4 is amended to read:

20 § 4. REVIEW BY LEGISLATIVE COMMITTEE

1 (a) The Legislative Committee on Judicial Rules, by majority vote of the  
2 entire Committee, may object to proposed rules or amendments and  
3 recommend that the Court or the Commission amend or withdraw the proposal.  
4 The Court or the Commission shall be notified promptly of the objections. The  
5 Court or the Commission may respond in writing to the Committee. After  
6 receipt of a response, the Committee may withdraw or modify its objections.

7 (b) The Committee shall report on each proposal with the Committee's  
8 recommendations; annually to the General Assembly on or before January 10.

9 \* \* \*

10 Sec. 34. 3 V.S.A. § 810 is amended to read:

11 § 810. RULES OF EVIDENCE; OFFICIAL NOTICE

12 In contested cases:

13 (1) Irrelevant, immaterial, or unduly repetitious evidence shall be  
14 excluded. The Rules of Evidence as applied in civil cases in the Superior  
15 Courts of this State shall be followed. When necessary to ascertain facts not  
16 reasonably susceptible of proof under those rules, evidence not admissible  
17 thereunder may be admitted (except where precluded by statute) if it is of a  
18 type commonly relied upon by reasonably prudent ~~men~~ persons in the conduct  
19 of their affairs. Agencies shall give effect to the rules of privilege recognized  
20 by law. Objections to evidentiary offers may be made and shall be noted in the  
21 record. Subject to these requirements, when a hearing will be expedited and

1 the interests of the parties will not be prejudiced substantially, any part of the  
2 evidence may be received in written form.

3 \* \* \*

4 \* \* \* Renewable Energy Standard Analysis \* \* \*

5 Sec. 35. ANALYSIS CONCERNING INCREASING DISTRIBUTED  
6 RENEWABLE GENERATION AND REPORT

7 (a) On or before August 15, 2023, the Department of Public Service  
8 (Department) shall retain the services of an independent third party to conduct  
9 a macroeconomic analysis using Regional Economic Models, Inc. modeling or  
10 modeling of a similar rigor that would analyze the macroeconomic impacts of  
11 changes to the Renewable Energy Standard that would increase the amounts  
12 required pursuant to 30 V.S.A. § 8005(a)(2)(C). This modeling shall be based  
13 on the scenarios developed by the Department as part of its Renewable Energy  
14 Standard review pursuant to 30 V.S.A. § 8005b.

15 (b) The Department shall consult with the Joint Fiscal Office throughout  
16 the process.

17 (c) The Department shall provide the relevant stakeholders with the  
18 opportunity to provide recommendations on the scenarios modeled, including  
19 the inputs and assumptions. The stakeholders shall include Green Mountain  
20 Power, the Burlington Electric Department, the Vermont Public Power Supply  
21 Authority, the Washington Electric Co-op, the Vermont Electric Co-op, the

1 Vermont Public Interest Research Group, Renewable Energy Vermont,  
2 Conservation Law Foundation, the Vermont Electric Power Company, the  
3 Vermont Housing and Finance Agency, the Vermont Natural Resources  
4 Council, GlobalFoundries, Associated Industries of Vermont, the Sierra Club,  
5 Stowe Electric, and Hyde Park Electric.

6 (d) On or before January 15, 2024, the analysis shall be reported to the  
7 House Committee on Environment and Energy and the Senate Committee on  
8 Natural Resources and Energy.

9 (e) The duty to implement this section is contingent upon an appropriation  
10 in fiscal year 2024 from the General Fund to the Department of Public Service  
11 for the purpose of providing funding for the analysis described in this section.

12 \* \* \* Effective Dates \* \* \*

13 Sec. 36. EFFECTIVE DATES

14 This act shall take effect on July 1, 2023, except that Sec. 24, sales tax  
15 exemption for advanced wood boilers, shall take effect on June 30, 2023.

16 and that after passage the title of the bill be amended to read “An act relating to  
17 miscellaneous environmental, natural resources, and energy subjects”